

Application No. 10/021,482  
Response to OA of 10/20/2004

### **Remarks**

In the present response, no claims are amended. Claims 31-36 are presented for examination.

#### **I. Claim Rejections: 35 USC § 103**

Claims 31-36 are rejected under 35 USC § 103 as being unpatentable over Ito et al. (USPN 6,302,795, hereinafter Ito) in view of Nakade et al. (US# 2003/0189637 A1, hereinafter Nakade). This rejection is traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants assert that the rejection does not satisfy these criteria.

#### **No Suggestion or Motivation to Combine References**

No suggestion exists, either in Ito or Nakade or in knowledge generally available to one of ordinary skill in the art, to modify or combine the references. According to MPEP § 2143.01:

There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.

None of these criteria are satisfied.

Both references are directed to solving completely different problems. Ito is directed to solving the problem of illegally downloading from video games:

In particular, when a program recorded on CD-ROM or other recording media is downloaded from a video game machine, it is difficult to manage this downloading from the video game machine side or from the recording media side, so there is a problem in that a program recorded on a single recording media may be illegally downloaded multiple times.

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The present invention came about in light of the  
aforementioned problems .... (Col. 1, lines 35-44).

By contrast, Nakade is directed to solving problems of transmitting images via  
videophones:

However, as has been the case with the hitherto videophone,  
against such the communication terminal device, an attention has  
up to now been paid only to transmitting a live image, in other  
words, it has been positioned, in most cases, as a dedicated device  
for transmitting live image.

More specifically, there has been problems that adaptability when  
a user does not want to transmit, for instance, the live picture is  
insufficient, in addition to difficulty to use. (See paragraphs [0005  
– 0006]; text omitted).

Further, there is no teaching, suggestion, or motivation to combine the references.  
In this regard, Ito teaches a portable terminal machine that controls the execution of a  
downloaded program depending on a usage time limit when a sub program downloaded  
from a video game machine is stored in the storage device. (See Ito Abstract). By  
contrast, Nakade teaches transmitting images using videocphones (see paragraph [0039]).

Furthermore, the proposed modification would render the prior art being modified  
unsatisfactory for its intended purpose. Alternatively, the modification or combination of  
Ito and Nakade would change the principle operation of Ito. Ito is directed to a data  
processing system consisting of a video game machine and a portable terminal machine  
that downloads a program from the video game machine (see Col. 4, lines 47-50).  
Nakade is directed to transmitting images using videocphones (see paragraph [0039]). If  
Ito's video game machine is combined with a videophone, then Ito becomes  
unsatisfactory for its intended purpose.

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**References not Teach or Suggest all Claim Limitations**

Claims 31-36 have numerous recitations that are not taught or suggested in Ito and/or Nakade. For example, claim 35 recites a **wearable** device. Ito teaches a portable terminal machine, but not a wearable device. Nakade teaches a videophone, but no where does Nakade teach or suggest that the videophone is wearable.

As another example, independent claim 35 recites a wearable device "for **querying** a substantially comprehensive record of an immediate environment of a user." Words in a claim should be given their ordinary and plain meaning. According to Merriam-Webster online dictionary (<http://www.merriam-webster.com>), the term query and its inflected forms means:

Main Entry: **query**

Function: *transitive verb*

Inflected Form(s): **queried; query-ing**

1 : to ask questions of especially with a desire for authoritative information

2 : to ask questions about especially in order to resolve a doubt

3 : to put as a question

4 : to mark with a query

Neither Ito nor Nakade teaches or suggests a wearable device that **queries** a substantially comprehensive record of an immediate environment of a user. Ito is directed to a data processing system consisting of a video game machine and a portable terminal machine that downloads a program from the video game machine (see Col. 4, lines 47-50). Nakade is directed to transmitting images using videophones (see paragraph [0039]). Paragraph [0141] in Nakade does teach "user A captures the scene by a portable terminal device 101." No where, though, does Nakade teach or suggest that device 101 **queries** a substantially comprehensive record of an immediate environment of a user.

As yet another example, claim 31 recites a portable device "for capturing a **substantially comprehensive record** of an immediate environment of a user." By contrast, neither Ito nor Nakade teaches or suggests a portable device that captures a substantially comprehensive record of an immediate environment of a user. Ito is directed to a data processing system consisting of a video game machine and a portable terminal

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machine that downloads a program from the video game machine (see Col. 4, lines 47-50). Nakade is directed to transmitting images using videophones (see paragraph [0039]). Paragraph [0141] in Nakade does teach "user A captures the scene by a portable terminal device 101." No where, though, does Nakade teach or suggest that device 101 captures a **substantially comprehensive record** of an immediate environment of a user.

For at least these reasons, claims 31 and 35 are patentable over Ito in view of Nakade. Dependent claims inherit the limitations of a base claim. Thus, for at least the reasons given in connection with independent claims 31 and 35, all dependent claims are also allowable over Ito and/or Nakade.

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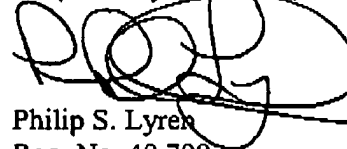
### CONCLUSION

In view of the above, Applicants believe claims 31-36 are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

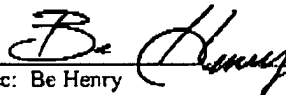
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Respectfully submitted,



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**CERTIFICATE UNDER 37 C.F.R. 1.8:** The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 703-872-9306 on this 14th day of December, 2004.

By   
Name: Be Henry